

PROPERTY ASSESSMENT APPEAL BOARD

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PAAB Docket No. 2019-057-10034C

Parcel No. 15032-01009-02001

Dennis and Peggy Frett,

Appellant,

vs.

Linn County Board of Review,

Appellee.

Introduction

This appeal came on for telephone hearing before the Property Assessment Appeal Board (PAAB) on October 3, 2019. Dennis Frett was self-represented. Linn County Deputy Assessor Caleb Howard represented the Board of Review.

Frett owns a commercial building on leased land located at 1690 Marion Airport Road, Marion. The property's January 1, 2019 assessment was set at \$240,100, allocated to the improvement value. (Ex. A).

Frett petitioned the Board of Review but did not select a ground on his petition. (Ex. C). The Board of Review met with Frett in May 2019. (Ex. J). Based on the Board of Review minutes, it appears Frett was contending his property is assessed for more than the value authorized by law. Iowa Code § 441.37(1)(a)(2) (2019). The Board of Review denied the petition.

Frett reasserted his claim to PAAB.

General Principles of Assessment Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. PAAB is an agency and the provisions of the Administrative Procedure Act apply. § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). PAAB may consider any grounds under Iowa Code section 441.37(1)(a) properly raised by the appellant following the provisions of section 441.37A(1)(b) and Iowa Admin. Code R. 701-126.2(2-4). New or additional evidence may be introduced. *Id.* PAAB considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct, but the taxpayer has the burden of proof. §§ 441.21(3); 441.37A(3)(a). The burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Compiano v. Bd. of Review of Polk Cnty.*, 771 N.W.2d 392, 396 (Iowa 2009) (citation omitted).

Findings of Fact

The subject improvement is a 12,744-square-foot metal warehouse built in 2004 and used as an airport hangar. It has a concrete floor, unfinished ceilings and walls, and some metal partitioning between bays. Two bays have insulation but no heat; the remaining bays are not insulated or heated. It has ten, bi-fold power/hydraulic doors that are 43-feet wide and 14-feet high; and two, bi-fold power/hydraulic doors that are 30-feet wide and 14-feet high. The improvement is listed in normal condition with a 5+00 (below-average quality) grade. The Assessor's Office applied 23% physical depreciation, 10% functional obsolescence, and 10% external obsolescence to the assessment; cumulatively this indicates roughly 33% total depreciation to the subject improvements. (Ex. A).

The subject building is located at the Marion Airport, and Frett refers to it as a T-Hangar.¹ (Ex. 1). Frett explained T-hangars are commonly metal sheds with no or minimal amenities, finish, or facilities making these structures “substantially” inferior to maintenance and storage hangars. Frett also asserts that because a T-Hanger is used only for storage, it is essentially an extension of a residential garage and not a commercial building. (Ex. 1). Frett did not raise a claim asserting his property is misclassified.

The Board of Review minutes detail statements Frett made to the Board of Review indicating the subject building was the first to be constructed. (Ex. D). The minutes further state, “He built it, and it filled up immediately, and there are now approximately another 30 hangars and the airport has grown astronomically since then.” (Ex. D). Aerial photographs show the subject is located near two other large hangar buildings and four other smaller hangar buildings. (Ex. F)

In Frett’s opinion, his building cannot be valued by the sales comparison approach because the scarcity of sales renders this method of valuation unreliable. (Ex. 1). He states the approach is unreliable “due to scarcity and infrequency of sales, and limited market locations within the comparable area. This approach is essentially invalid for aircraft hangers in this area.” (Ex. 1). He believes the cost and income approaches are valid methods of valuing the subject building.

In addition to considering the cost of the building, Frett believes the type of ownership of the underlying land must also be considered in the development of the cost approach. He notes the majority of public airports are on public land with short-term leases. However, the subject is located at the Marion Airport, which Frett identified as the only airport in Iowa that is a public airport runway on public land. Although the ancillary support buildings/services are public-use, they are located on private land. (Ex. 1). Frett asserts the terms of the subject building’s lease must be considered in its valuation.

¹ A T-Hangar (aka: tee hangar) is a type of enclosed structure designed to hold aircraft in protective storage.

The subject building was constructed on leased land with a 20-year, plus 10-year term. (Exs. 1 & 5). The initial lease term began November 5, 2003. At the expiration of the lease, the lessee has the right, but is not required, to remove the building. (Ex. 4, para. 20). If the airport is sold or converted to a different use, the lessors have the first option to buy out the lessee's buildings at the appraised value. (Ex. 4, para. 20). Similarly, if airport development requires the building be moved, the relocation shall be paid for by the lessor and the building shall be relocated to a comparable location. (Ex. 4, para. 18). We note there is no lease provision prohibiting the amendment, modification, or extension of the lease. In fact, paragraph 20 of the lease contemplates the possibility the lease could be extended.

Frett asserts the land lease is also subject to potential sale to other parties, including the City of Marion, or other parties that may not be interested in continuing the current aviation purpose and use of the property, which Frett argues would accelerate functional obsolescence. He reports the subject improvement has a limited life of 6- to 16-years before it must be dismantled, donated, or perhaps purchased by the City of Marion. In Frett's opinion, the assessment does not adequately consider the limited life, and therefore the decreased pool of potential purchasers for the subject property. Frett also argues that because there is a ground lease in place it cannot be valued as fee simple.

Frett completed his own cost analysis. He reports the subject building had a cost to construct in 2004-05 of \$171,982, and used this 15-year old cost estimate to develop his cost analysis. (Ex. 1). He depreciated this cost on a 29-year, straight-line basis and noted the lease also allows for the cost of removing the building at the end of the lease. Based on its actual age of 14-years, he asserts the "remaining value" of the subject building is \$88,956, plus the salvage value of the dismantled building. (Ex. 1). Frett's analysis of the remaining value is akin to a residual or salvage value,² which is an accounting term representing an estimate of value at the end of an asset's useful life,

² Salvage Value is the value of an asset after it has become useless to the owner; the amount expected to be obtained when a fixed asset is disposed of at the end of its useful life. BLACKS LAW DICTIONARY 11th ed. (2019).

which in this case is sometime in the future rather than the January 1, 2019, assessment date.

Frett also considered an income approach but used it for illustrative purposes by comparing the rental income of subject property to larger hangars located at the Cedar Rapids Municipal Airport (CRMA). (Exs. 1-3). He testified the CRMA has not increased its hangar rental rates since 2011; therefore its effective market value has not changed in eight years. We note that actual rental rates may be different than market rental rates, which a fair market value income analysis would consider.

In his income analysis, Frett testified he applied a 10% capitalization rate that he acknowledged had no meaning other than to demonstrate the CRMA property would always have a higher value compared to his property because it is publicly owned and does not have any operating expenses. Frett did not know if the CRMA was exempt from taxation.

Frett testified he had an informal conversation with a potential investor who told him that he would not pay more than \$175,000 for the subject property. There was no formal offer made.

Frett submitted an appraisal completed by Jonathan Westercamp of Real Estate Analysts, Cedar Rapids. (Ex. 5). Westercamp developed the cost and income approaches to conclude a \$130,000 value of the leasehold interest³ of the subject property as of January 1, 2019. (Ex. 5, pp. 4-5, 13, 30). Westercamp recognizes Iowa Code requires a fee simple interest to be considered for assessment purposes. (Ex. 5, p. 21). However, he testified he believes a fee simple value cannot be developed for the subject property because the existing ground lease affects the bundle of rights.

Westercamp did not develop the sales comparison approach. He reported there were no recent sales found in the area and therefore this approach was not developed. (Ex. 5, p. 56). He also testified he was unable to find any recent sales, fee simple or leasehold, of airport hangars.

³ Leasehold interest is defined as the tenant's possessory interest created by the lease. APPRAISAL INSTITUTE, THE DICTIONARY OF REAL ESTATE APPRAISAL 111 (5th ed. 2010).

Westercamp relied on MARSHALL AND SWIFT, a national cost handbook, to arrive at a replacement cost new for the subject improvements of \$377,732. Unlike Frett, Westercamp's replacement cost new (RCN) reflects the cost new as of January 1, 2019. He added 3% soft costs to arrive at a total RCN of \$389,064. (Ex. 5, p. 42-44). Comparatively, the Assessor's Office concluded an RCN of \$385,105⁴ after considering the Grade multiplier. (Ex. A, p. 2).

Westercamp included interior and exterior photographs of the subject improvements and identified them as being in average condition. (Ex. 5, pp. 7-11, 34 & 37). Based on the photographs, the property appears to have been reasonably well-maintained with no obvious deferred maintenance. Westercamp concluded an effective age of 15 years, which is also the actual age of the improvements. He also concluded a remaining economic life of 20- to 25-years; which indicates to an economic life of 35- to 40-years. (Ex. 5, p. 34). These conclusions suggest the subject improvements would have an age-life depreciation rate between roughly 38% and 43%.

In his cost analysis, Westercamp relied on MARSHALL AND SWIFT for his depreciation rate of 65%, which he considered reasonable based on his observation of the subject building. We note this is nearly twice the amount of depreciation that was applied in the assessment and higher than his indication based on the age-life method. Westercamp concluded a depreciated cost of the improvements to be \$144,000. (Ex. 5, p. 43-44).

Westercamp testified the biggest challenge in valuing the subject property was the short-term land lease that exists and the modest quality of the improvements. In combination, he believes the improvements would have limited, if any, value at the termination of the land-lease. In his opinion an investor would consider this to be high risk and would consider a discount rate accordingly. Based on the foregoing, he did not include a reversionary or salvage value for the improvements in his analysis.

Westercamp's income analysis is based on a discounted cash flow (DCF) model and estimated the leased fee interest within the leasehold interest. (Ex. 5, p. 45). A DCF

⁴ \$239,959 (Building subtotal) + \$102,340 (Ten 43' by 14' doors) + \$14,280 (Two 30' by 14' doors) = \$356,579 X 1.080 Grade Multiplier = \$385,105 RCN.

is a procedure in which a discount rate is applied to a set of projected income streams and a reversion. APPRAISAL INSTITUTE, THE DICTIONARY OF REAL ESTATE APPRAISAL 59 (5th ed. 2010). “In many markets and for many property types, DCF analysis is the technique investors prefer. The proper application of DCF analysis identifies the market conditions investors are anticipating as of the date of value.” APPRAISAL INSTITUTE, THE APPRAISAL OF REAL ESTATE 529 (14th ed. 2013).

Westercamp considered the actual hangar rates of the subject property and compared them to other market rates. (Ex. 5, pp. 46-48). He concluded a total market rent for the subject hangar of \$24,840. After considering 5% vacancy and adjusting the income for expenses, Westercamp concluded a net operating income (NOI) of \$16,301. (Ex. 5, p. 52).

Westercamp interviewed local investors and relied on national publications to arrive at an opinion of an 8% discount rate of return,⁵ to which he loaded for taxes concluding a loaded rate of 11.57%. (Ex. 5, p. 53-54). Westercamp, concluded a NPV (net present value) of \$115,000 based on a DCF from 2019-2033. (Ex. 5, p. 55).

Westercamp gave equal weight to the cost and income approaches. He reconciled to final opinion of value of \$130,000 for the subject. (Ex. 5 p. 59).

The Board of Review submitted eight warehouse sales, which are summarized in the following table. (Exs. H & I).

Comparable Sale	Sale Price (SP)	Building Area (SF)	Assessed Land Value	Total Assessed Value	SP/SF	Total AV/SF	SP of Improvements (SPI) ⁶	SPI/SF
Subject		12,744		\$240,100		\$18.84	\$240,100	\$18.84
1	\$1,550,000	18,630	\$396,500	\$2,003,200	\$83.20	\$107.53	\$1,153,500	\$61.92
2	\$275,000	4,800	\$84,300	\$255,300	\$57.29	\$53.19	\$190,700	\$39.73
3	\$202,000	5,500	\$45,900	\$177,700	\$36.73	\$32.31	\$156,100	\$28.38
4	\$1,500,000	22,652	\$151,000	\$1,148,900	\$66.22	\$50.72	\$1,349,000	\$59.55
5	\$560,000	12,000	\$88,000	\$496,000	\$46.67	\$41.33	\$472,000	\$39.33
6	\$1,070,000	34,000	\$202,400	\$1,204,200	\$31.47	\$35.42	\$867,600	\$25.52
7	\$440,000	11,000	\$157,500	\$462,000	\$40.00	\$42.00	\$282,500	\$25.68
8	\$239,000	4,584	\$89,900	\$195,600	\$52.14	\$42.67	\$149,100	\$32.53

⁵ A discount rate is used to determine the present value of future cash flows in a DCF.

⁶ The extracted improvement value of the sale price was determined by subtracting the assessed land value from the sale price.

The Board of Review's sales occurred between 2017 and 2019 and the properties were built between 1975 and 2005. None of the sales were adjusted for differences that may exist between them and the subject property. The Board of Review noted the comparable sales are not aircraft hangars but they are metal warehouses, which it asserts has the same occupancy as the subject property. (Ex. I)

The Board of Review compared the total assessed value and the sale prices per square foot of each comparable with medians of \$42.34 and \$49.40 respectively. (Ex. H). However, this analysis includes the value of land to each comparable sale and the subject's assessed value is for the improvement only.

The Board of Review then extracted what it believes represents the sale price of the improvements only. (Ex. I). This analysis indicates a sale price for the improvement only of \$25.52 to \$61.92 per square foot, and a median of \$35.93 per square foot. The \$18.84 per square foot assessed value of the subject improvements is well below this range. Frett argues that simply excluding the value of the land and identifying the sale price per square foot of the comparables is not a valid analysis because it does not consider the remaining useful life to a purchaser.

Howard testified for the Board of Review. He identified Sale 7 as the most similar to the subject property. It was built in 2005 with similar building area to the subject property. He identified it as superior to the subject property because of its steel construction, plumbing, and a dry sprinkler system. It is just a little over a mile west of the subject property and sold for \$25.68 per square foot after land was removed from the sale price. Howard acknowledged this value indication is before adjustments for differences.

Analysis & Conclusions of Law

Frett asserts the subject property assessed for more than the value authorized by law. § 441.37(1)(a)(2).

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the

assessment is excessive and 2) the subject property's correct value. *Soifer v. Floyd Cnty. Bd. of Review*, 759 N.W.2d 775, 780 (Iowa 2009) (citation omitted).

There is no presumption the assessed value is correct, but the taxpayer has the burden of proof. §§ 441.21(3); 441.37A(3)(a). The burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Compiano v. Bd. of Review of Polk Cnty.*, 771 N.W.2d 392, 396 (Iowa 2009) (citation 6 omitted). To shift the burden, the taxpayer must “offer[] competent evidence that the market value of the property is different than the market value determined by the assessor.” Iowa Code § 441.21(3). To be competent evidence, it must “comply with the statutory scheme for property valuation for tax assessment purposes.” *Soifer*, 759 N.W.2d at 782.

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* The sales comparison method is the preferred method for valuing property under Iowa law. *Compiano*, 771 N.W.2d at 398; *Soifer*, 759 N.W.2d at 779; *Heritage Cablevision v. Bd. of Review of Mason City*, 457 N.W.2d 594, 597 (Iowa 1990). “[T]he proper measure of the value of property is what the property would bring if sold in fee simple, free and clear of any leases.” *I.C.M. Realty v. Woodward*, 433 N.W.2d 760, 762 (Iowa Ct. App. 1988) (emphasis added); *Merle Hay Mall v. City of Des Moines Bd. of Review*, 564 N.W.2d 419 (Iowa 1997); *Oberstein v. Adair Cnty. Bd. of Review*, 318 N.W.2d 817 (Iowa Ct. App. 1982).

The first step in this process is determining if comparable sales exist. *Soifer*, 759 N.W. 2d at 783. “Whether other property is sufficiently similar and its sale sufficiently normal to be considered on the question of value is left to the sound discretion of the trial court.” *Id.* at 782 (citing *Bartlett & Co. Grain Co. v. Bd. of Review of Sioux City*, 253 N.W.2d 86, 88 (Iowa 1977)). “Thus, a witness must first establish that evidence of comparable sales was not available to establish market value under the comparable-sales approach before the other approaches to valuation become competent evidence

in a tax assessment proceeding.” *Id.* (citing *Soifer*, 759 N.W.2d, at 782); *Carlton Co. v. Bd. of Review of Clinton*, 572 N.W.2d 146, 150 (Iowa 1997).

The subject is used as an airplane hangar but it is a large metal pole building that is similar in construction to a warehouse, with the exception of its twelve bi-fold power/hydraulic doors.

The premise of Frett’s entire claim is that his property cannot be valued using normal methods because it is a building on leased land. However, Iowa assessment law contemplates this type of property ownership. Iowa Code § 428.4(3). Moreover, we find no exception for or exemption from the methods prescribed by section 441.21, or the case law interpreting section 441.21, when valuing such buildings.

Frett also asserts there are no comparable sales of airplane hangars that could be considered to develop a sales comparison approach. Additionally, he believes the subject property cannot be valued by the sales comparison approach because it is subject to a ground lease. Therefore, he moves past the sales comparison approach and relies on the cost and income approaches to support a conclusion of value for the subject property.

A party relying on the “other factors” approaches in section 441.21(2) bears the burden of persuading the fact finder that the property’s fair market value cannot be readily established by comparable sales. *Carlton Co. v. Bd. of Review of City of Clinton*, 572 N.W.2d 146, 150 (Iowa 1997) (citing *Bartlett & Co. Grain*, 253 N.W.2d at 89). Sales need not be located in the assessor’s geographical area to be comparable. *Id.*

Frett and Westercamp’s sales search appears to be confined to the local area and we do not find a search limited to the local area reasonable in this case. Because of the type of property being valued, a larger search area would likely be warranted. See *Bartlett & Co. Grain*, 253 N.W.2d at 93. Given the apparent limited scope of their sales search, we are not wholly persuaded that sales are unavailable or could not be used to value the subject property. Further, we are not convinced we should depart from the fee simple valuation requirement in this case, as Frett requests. Accordingly, we find Frett and Westercamp’s opinions of value do not comply with the statutory scheme, are not competent evidence, and do not shift the burden of proof.

The Board of Review submitted eight sales of metal warehouse that it believes show the subject's January 1, 2019 assessment is at market value. The Board of Review did not adjust these sales for differences between them and the subject property. All of the sales were of improved sites and not buildings on leased land; therefore, in its analysis, it attempted to determine the contributory value of the improvements by subtracting the property's assessed land value from the sale price. While this method for determining contributory value is generally reasonable, in this case there is no additional evidence to support the conclusion that the comparables' assessed land values were reasonably equivalent to their market value. Therefore its sales comparison conclusions are subject to some speculation..

Nonetheless, we find the similarity between these sales comparables and the subject's building indicate the subject may retain some contributory or salvage value at the end of its lease term. For example, Sale 8 was built in 1975 and sold in 2019. At 44 years of age when it sold, Sale 8 was older than the subject will be when its lease terminates in 2033.

As previously noted, Westercamp and Frett did not complete a sales comparison approach, but relied on the income and cost approaches. We give no consideration to Frett's cost and income approaches because he did not rely on recent market data or costs in doing so.

Westercamp developed an income approach for the subject property using a DCF analysis, which estimates a value to a particular investor based on future anticipated cash flow. Westercamp urges the necessity of this analysis is based on the subject's existing ground lease. As previously noted, although there may be an increased risk associated with the property due to the ground lease, the building should still be valued in fee simple. Moreover, we are not convinced the subject will have no contributory or salvage value at the end of the lease term. We do not find the assumption that the subject will have no contributory or salvage value at the end of the lease term to be reasonable. Acknowledging the parties' right to amend the lease and extend it beyond the current end date, the current lease also allows for the building to be purchased by the lessor or removed by the lessee at the end of the lease term. In

our view, the cessation of the lease does not necessarily cause the building to lose all value. In fact, the Board of Review's comparables suggest similar buildings may continue to retain value.

Westercamp also developed a cost approach to value. Westercamp concluded an RCN of \$389,064; comparatively, the Assessor's Office concluded an RCN of \$385,105. From here, the two analyses differ in the amount of depreciation considered to arrive at a conclusion of value by the cost approach. Westercamp applied 65% total depreciation, whereas the Assessor's Office applied physical, functional, and external obsolescence with a cumulative total of roughly 33%. Based on the testimony and photographic evidence, we are not persuaded the subject property suffers 65% total depreciation.

Recognizing that fee simple value is the focus of an ad valorem assessment, we also understand the unique circumstances involved with the subject property and suggest the parties may want to engage in future discussions to determine if the external obsolescence applied by the Assessor's Office adequately captures existing influences outside of the subject improvements (external obsolescence) that may affect its value.

Viewing the record as a whole, we find Frett has not offered persuasive evidence of the subject's fee simple, fair market value as of January 1, 2019, and has failed to show his property is assessed for more than the value authorized by law.

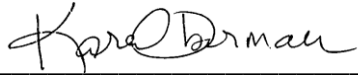
Order

PAAB HEREBY AFFIRMS the Linn County Board of Review's action.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A.

Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action.

Any judicial action challenging this Order shall be filed in the district court where the property is located within 30 days of the date of this Order and comply with the requirements of Iowa Code section 441.37B and Chapter 17A.19 (2019).



Karen Oberman, Board Member



Dennis Loll, Board Member



Elizabeth Goodman, Board Member

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